

Civil Rights Compliance In Child Nutrition Programs

Utah State Office of Education

Civil Rights training is required yearly of those participating in Child Nutrition Programs (CNP) to ensure compliance with and enforcement of the prohibition against discrimination in all of our programs. This applies to all CNP programs. The words facilities and sponsors refer to SFAs, Sponsors, and Home Providers. Now, in order to understand Civil Rights, let's start with a brief historical review as to how they came about.

History

Civil Rights are guaranteed to U.S. citizens by the 13th and 14th amendments to the Constitution. But they have also been clarified through a number of individual pieces of legislation. Original revisions of the civil rights act were made in the 1960s, during the "Civil Rights Movement".

When John F. Kennedy became president in 1961, many African Americans and other nationalities were denied the right to vote, barred from public facilities, subjected to insults and violence and could not expect justice from the courts. They also faced discrimination in housing, employment and education.



In 1954, the Supreme Court ruled that racial segregation in public schools was unconstitutional, but many southern leaders claimed that decision violated the rights of states to manage their systems of public education.

In the spring of 1963, Martin Luther King, Jr. and others launched a campaign of mass protests in Birmingham, Alabama. The governor of Alabama, George Wallace, had vowed at his inauguration to defend "segregation now, tomorrow and forever".

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In June 1963, he stood at the door of the University of Alabama to prevent two African American students from enrolling. President Kennedy federalized the Alabama National Guard to guarantee equal access to public facilities, end segregation in education and to provide federal protection of the right to vote.



In August 1963, more than 200,000 Americans celebrated the centennial of the Emancipation Proclamation by marching on Washington and Martin Luther King, Jr. delivered his “I Have a Dream” speech on the steps of the Lincoln Memorial.

Later that fall, comprehensive Civil Rights legislation worked through the House and the Senate. It was not passed, however, before President Kennedy was assassinated on November 22, 1963. The bill was left in the hands of Lyndon B. Johnson. On July 2, 1964 the Civil Rights Act was passed. That legislation protected individuals from discrimination based on race, color or national origin.

Since then, other protected classes have been identified. Title 9 of the Civil Rights Act prevents discrimination based on sex. Americans with disabilities were given protection in 1990 and age discrimination prohibition was added last in 1967.

With that history in mind, let’s shift forward into what discrimination actually is, and, if occurring, what it may look like in your CNP program.

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Definitions of Discrimination

So, what is discrimination? Discrimination is the act of distinguishing one person or group of persons from others, either intentionally, by neglect, or by the effect of actions or lack of actions based on their protected classes. Notice the definition protects individuals if they were intentionally, by neglect, by the effect of actions or the lack of action treated differently than others. There are some forms of discrimination that you should know about, and thereby be able to identify them. There are a few more definitions.

Disparate Treatment is when a person is treated differently because he or she belongs to a protected class. Exception- people can be treated better; example: persons with disabilities can be treated better, like parking spots.

Disparate Impact is when discrimination resulted on a protected class because of an action or rule, even though there was no intent in the law or rule to discriminate, thereby resulting in unintended consequences.

Finally, Reprisal/Retaliation is when negative treatment due to prior civil rights activity by an individual or his/her family or known associates or for cooperating with an investigation.



The 3 D's of Discrimination

Discrimination occurs when an individual is **D**enied benefits or services which others receive, is **D**elayed receiving benefits or services that others receive, or when they are treated **D**ifferently than others to their disadvantage.

These are some examples of discrimination that are prohibited in CNP:

- Refusing a child's enrollment based on disability.
- Failure to provide reasonable accommodations to individuals with disabilities.
- Serving meals at a time, place, or manner that is discriminatory.
- Selectively distributing applications.
- Failure to provide the same eligibility criteria to all participants.
- Failure to provide foreign language materials regarding CNP.

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Protected Classes

The protected person or group of people who have the following characteristics are protected from discrimination by the legislation previously mentioned: race, color, national origin, age, sex, and disability. Other protected classes include gender identity, religion, reprisal, political beliefs, marital status, familial or parental status, sexual orientation, all or part of an individual's income, & protected genetic information. But for our purposes, the six protected classes listed above need to be protected against discrimination.



Components of Civil Rights Training

Civil Rights compliance requires specific components. Any training, such as this one, should give details regarding the applicable parts of these components. We will go over each of these areas individually.

1. Assurance

Your SFA made assurances as part of the Program Agreement made with the Child Nutrition Program Office of the Utah State Office of Education. Assurances include your sponsor agreement to administer programs in accordance with all laws, regulations, instructions, policies, and guidance related to nondiscrimination. Also, compliance to the agreement(s) with the State Agency will be verified by compiling data, maintaining records, and submitting required reports.

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2. Public Notification System

The SFA is responsible to inform applicants, participants, and potentially eligible persons of program availability, the rights and responsibilities of the program, procedures for filing a complaint, and the organization's policy of nondiscrimination. Listed in the table below are various ways that you and your SFA can inform the public, through media releases, posters, and the Civil Rights statement.

Public Notification System	
Provide	Methods
<ul style="list-style-type: none">• Informational materials in appropriate translations concerning availability and nutritional benefits of programs• Equal opportunity notification	<ul style="list-style-type: none">• Media release• Building for the Future Poster - Provider• And Justice for All Poster – all sites• Civil Rights statement

The “Justice for All” poster is part of public notification system, and applies to the facility office and all SFA or sponsor sites. Display the non-discrimination poster in a prominent area where participants, both current and potential, have access.



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3. Non-Discrimination Statements

There are two forms of the non-discrimination statement, long and short, and either of these statements must be on program materials that you post in your facility, send home, or on your website. These include employee handbooks, enrollment forms, menus, newsletters, brochures, parent handbooks, flyers, and print or broadcast advertisements. The print size for the larger statement must be readable, and Spanish translations are available as well. For more information on translations, see Bulletin 31-13 on the State Agency's website. Below is the long statement:

The U.S Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form , found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish).

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3. Non-Discrimination Statements, continued

You can also use the short statement, which many sponsors enjoy using on printed menus that they send home with students, on their websites, and radio and TV public service announcements. Again, this statement needs to be in a readable font, and should not be smaller than the smallest text on the printed material:

“The USDA is an equal opportunity provider and employer.”

4. Outreach and Education

Third, outreach and education should also be a part of your program operations. It is your responsibility to reach as many potential eligible participants as possible and to ensure program access to all, including under-represented groups. This can be done when using graphics to reflect diversity and inclusion. Also, you can reach out to Grassroots Organizations, advocacy organization, community action program, civic organization, migrant group, religious organization, neighborhood council, or other similar groups.



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5. Data Collection and Reporting

Fourth, data collection and reporting are required elements. Your SFA must establish a system to collect ethnic and racial data. The purpose of this data is to establish the effectiveness in reaching potential eligible populations, identifying areas for outreach, and identifying weaknesses in the program. However, there is a difference between race and ethnicity. Race is associated with biology, whereas ethnicity is associated with culture. Races are genetically distinct populations within the same species. Ethnicity is the term for the culture of a people in a given geographic region, including language, heritage, religion and customs.

Annually, you'll need to collect ethnic & racial data for all participants. The main purpose is to demonstrate there is no difference between the population of the area and the population in your program. Talk your school or registration office to see if they track ethnicity and racial data; some schools track racial and ethnic data upon registration at the school. Data collection can also help point out where more effective outreach might be needed.



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6. Language Assistance and LEP

Next, language assistance is a service provided in order that no person eligible be denied access to the Child Nutrition Program simply because they do not speak English or are not proficient in English. Specifically, have a process at your SFA to assist Limited English Proficiency (LEP) households. An LEP household is one in which individuals who do not speak English as their primary language and have limited ability to read, speak, write, or understand English.

Participants in federally funded programs must take reasonable steps to ensure meaningful access to their programs and activities by persons with LEP. Agencies that fail to provide services to persons with LEP may be discriminating on the basis of national origin. The sponsor is required to provide materials in other languages for those for who have limited English proficiency, and to provide interpreters when needed.



The Sponsor must have a process for identifying LEP households. LEP households need to be identified by the Sponsor. This process could include the “I Speak” documents from USDA that can be posted on the website or physically located in the Sponsor sites. Also, be sure that students of the LEP household should not be used as interpreters. If volunteers are used, they must understand interpreter ethics, particularly complete confidentiality.

Another idea for the process of identifying LEP households could include coordinating with the registration office of your LEA. This will enable the LEP households to be identified as soon as they enroll in the LEA.

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6. Language Assistance and LEP, continued

Once you have identified an LEP household, you will need to then accommodate that household. First, you need to make sure that the application is available in their chosen language. Language should not be a barrier nor deny any student the opportunity to participate in the programs available at your facility.

7. Accommodating Disabilities

Students with disabilities need to be accommodated. The SFA must provide services for those with disabilities, by either honoring the needs of the student or by finding another sponsor that can accommodate the student. Specifically in Child Nutrition, a common disability that may be seen is a special diet request form signed by a physician. The form would only be needed if the disability requires modification of the meals in a way which would make it impossible for a reimbursable meal to be served.

Depending upon the type of disability, accommodating the needs of the child might mean locating services with another day care home or another sponsor. Assure the person with disabilities receives equal benefits to others on the program. The disability form is available on the Child Nutrition Programs Utah State Office of Education website. If you have additional questions about disabilities, call your CNP specialist for further assistance.



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8. Complaint Procedures

Next, complaint procedures need to be in place for your facility. If a Civil Rights complaint is given verbally, transcribe it, asking questions of the person making the complaint to assure you understand the complete nature of the complaint. If you can see there is a violation, act to correct the situation as quickly as possible. The complaint must still be reported to the Child Nutrition Programs of the Utah State Office of Education and USDA, but the steps taken to rectify the situation may also be reported.

What are your local processes for addressing a civil rights complaint? If you do not know, now is the time to go and find out, and then implement that policy as well when processing Civil Rights complaints. Have a system or procedure to collect complaints. Also, anonymous complaints should be handled as any other complaint. Be sure to record any complaints in a log, so you know which ones have been forwarded and what steps were taken. If an individual makes a verbal complaint, then you need to document the complaint in writing. Be sure to listen to the complaint, collect the required information, and report true Civil Rights complaints to Child Nutrition Programs of the Utah State Office of Education and USDA. Address any corrective action(s) needed immediately, and document the change(s) which were required.

COMPLAINT

TO: _____ NAME: _____ MAIL: _____ PHONE: _____

WHOSE FAULT: ☐ NONE ☐ YOURS ☐ OTHER: _____

DESIRED OUTCOME: ☐ APOLOGY ☐ EXPLANATION ☐ LITIGATION ☐ PROMOTION ☐ RESTITUTION ☐ CHANGE

COMPLAINANT: _____ ☐ ANONYMOUS

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9. Completing Civil Rights Training Annually

Finally, Civil Rights training is required, and needs to be completed on an annual basis. Be sure to document that you completed this training by answering questions and signing the form at the end of this handout. Be sure that all staff in your organization receives this training.

The purpose of the reviews & training is to teach staff and providers to be proactive. Be aware of program requirements, and situations which might be problematic. Correct errors in procedures when you see them. If problems are identified, document and correct. If a complaint results record it and correct the situation. Report the complaint properly to USOE and USDA, and document the actions which were taken to address the problems. Be proactive and focus on good service to your participants and the public. The program is designed to serve all without prejudice.

If you have any additional questions, contact your CNP specialist, or call our office at 801-538-7755.

Now, it's time for a POP QUIZ to test what you've learned, and for you to sign and date the quiz, thereby indicating that you have completed this training.

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Quiz and Documentation of Completed Training

1. Name at least 4 of 6 the protected classes.

2. In what ways can you notify the public of your facility's compliance with Civil Rights?

3. What does LEP stand for, and is its role in Civil Rights?

4. Who do you notify when you receive a Civil Rights complaint?

5. How often should you receive Civil Rights training?

I, _____, hereby certify that I have completed the Civil Rights training and understand that I am responsible to properly uphold the personal liberties of participants in the Child Nutrition Program that I operate.

Signed: _____

Date: _____

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